

**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF VIRGINIA  
RICHMOND DIVISION**

In re

CIRCUIT CITY STORES, INC., et al.,

Debtors.

Chapter 11

Case No. 08-35653 (KRH)

Jointly Administered

**RESPONSE OF LaHABRA IMPERIAL, LLC TO LIQUIDATING  
TRUST'S FORTY-FIRST OMNIBUS OBJECTION TO LANDLORD  
CLAIMS (REDUCTION OF CERTAIN INVALID CLAIMS-MITIGATION)  
(Claim No. 12448)**

LaHabra Imperial, LLC ("LaHabra") hereby files its response (the "Response") to the Liquidating Trust's Forty-First Objection to Landlord Claims (the "Objection"). In the Objection, the Liquidating Trust asserts that LaHabra's Claim No. 12448 (the "Claim") filed in the amount of \$1,400,456.79 should be reduced and allowed in the sum of \$105,933.81. LaHabra opposes the relief sought by the Liquidating Trust in the Objection and asks that the Claim be allowed in the full amount in which it was filed. In support of its Response, LaHabra states the following:

1. The Liquidating Trust's Objection asserts that the Claim should be reduced subject to modification upon timely receipt of mitigation information.
2. The Claim should not be reduced as LaHabra was unable to mitigate the damages sought in its Claim.

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Augustus C. Epps, Jr., Esquire (VSB No. 13254)  
Michael D. Mueller, Esquire (VSB No. 38216)  
Jennifer M. McLemore, Esquire (VSB No. 47164)  
CHRISTIAN & BARTON, LLP  
909 East Main Street, Suite 1200  
Richmond, Virginia 23219  
Telephone: (804) 697-4100  
Facsimile: (804) 697-4112

Counsel for LaHabra Imperial, LLC

3. Circuit City rejected the space it rented from LaHabra effective March 10, 2009, pursuant to Bankruptcy Code Section 365(d)(2) and the procedures approved by this Court (the “Rejection”).

4. LaHabra has not been able to find a new tenant to rent the location that Circuit City occupied (store number 4313, 1020 W. Imperial Highway, LaHabra, California (the “Location”)).

5. The Location remains empty despite an aggressive marketing campaign, which included redesigning the store front, redesigning the layout of the space, utilizing a number of real estate brokers (the Location is currently listed with CB Richard Ellis), employing an in-house consultant to focus solely on releasing the Location, sending representatives to real estate leasing conferences to market the space, and circulating marketing brochures and e-mail blasts.

6. These efforts made by LaHabra have resulted in a few letters of intent, but never a new tenant. In addition, all potentially interested tenants came to LaHabra seeking to pay less each month compared with what Circuit City paid to lease the Location.

7. Based on these facts, it is clear that LaHabra has been unable to mitigate the damages sought in its Claim.

8. The party with authority to discuss mitigation issues and the facts stated in this Response is the following:

Dixie Cutright  
Retail Manager  
Arnel Commercial Properties  
949 South Coast Drive, Suite 600  
Costa Mesa, California 92626  
(714) 481-5155  
dcutright@arnel.com

WHEREFORE, LaHabra requests that the Court deny the Liquidating Trust's Objection to its Claim No. 12448 and that claim be allowed by Court order in the amount of \$1,400,456.79.

Dated: June 21, 2012

**CHRISTIAN & BARTON, LLP**

/s/ Jennifer M. McLemore

Augustus C. Epps, Jr., Esquire (VSB No. 13254)

Michael D. Mueller, Esquire (VSB No. 38216)

Jennifer M. McLemore, Esquire (VSB no. 47164)

909 East Main Street, Suite 1200

Richmond, VA 23219

Telephone: (804) 697-4100

Facsimile: (804) 697-6112

***Counsel for LaHabra Imperial, LLC***

**CERTIFICATE OF SERVICE**

I, Jennifer M. McLemore, hereby certify that on the 21<sup>st</sup> day of June 2012, a true and correct copy of the foregoing Response of LaHabra Imperial, LLC to Liquidating Trust's Forty-First Omnibus Objection to Landlord Claims (Reduction of Certain Invalid Claims-Mitigation) (Claim No.12448) has been served electronically using the ECF system on all registered users of the CM/ECF system who have filed notices of appearance in this matter and emailed separately to the following:

Jeffrey N. Pomerantz, Esquire  
Andrew W. Caine, Esquire  
Lynn L. Tavenner, Esquire  
Paula S. Beran, Esquire

[jpomerantz@pszjlaw.com](mailto:jpomerantz@pszjlaw.com)  
[acaine@pszjlaw.com](mailto:acaine@pszjlaw.com)  
[ltavenner@tb-lawfirm.com](mailto:ltavenner@tb-lawfirm.com)  
[pberan@tb-lawfirm.com](mailto:pberan@tb-lawfirm.com)

/s/ Jennifer M. McLemore  
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Jennifer M. McLemore